

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
MACON DIVISION**

JAVOR HAYWOOD,

Petitioner,

v.

STATE OF GEORGIA,

Respondent.

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No. 5:20-cv-00464-MTT-CHW

ORDER

Petitioner Javor Haywood, a prisoner in the Jenkins Correctional Center in Millen, Georgia, filed a handwritten document, which was docketed as a petition for a writ of habeas corpus. Pet. for Writ of Habeas Corpus, ECF No. 1. He did not, however, use the required 28 U.S.C. § 2254 form. Additionally, Petitioner did not either pay the \$5.00 filing fee or petition the Court to allow him to proceed *in forma pauperis* in this action.

Accordingly, if he wanted to proceed with this action, Petitioner was ordered to complete and return a § 2254 form and either pay the \$5.00 filing fee or submit an affidavit for leave to proceed *in forma pauperis* along with a certified copy of his trust fund account statement for the last six months. Order, ECF No. 3. Petitioner was given twenty-one days to complete and return the required form and either pay the filing fee or move for leave to proceed *in forma pauperis*. *Id.* Petitioner was also cautioned that his failure to fully and timely comply with the order could result in the dismissal of this action. *Id.*

More than twenty-one days passed after that order was entered, and Petitioner failed to file a § 2254 petition on the proper form, pay the \$5.00 filing fee, move for leave to proceed *in forma pauperis*, or otherwise respond to the Court's order. Thus, Petitioner was ordered to show cause to the Court why this case should not be dismissed for failure

to file a recast petition and either pay the filing fee or seek leave to proceed *in forma pauperis*. Order to Show Cause, ECF No. 4. Petitioner was given twenty-one days to respond and was cautioned that his failure to do so would result in the dismissal of this action. *Id.*

More than twenty-one days have now passed since that order was entered, and Petitioner has not responded to the show cause order or otherwise complied with the previous order. Thus, because Petitioner has failed to respond to the Court's orders and has otherwise failed to prosecute this case, it is hereby **ORDERED** that Petitioner's petition be **DISMISSED WITHOUT PREJUDICE**. See Fed. R. Civ. P. 41(b); *Brown v. Tallahassee Police Dep't*, 205 F. App'x 802, 802 (11th Cir. 2006) (per curiam) ("The court may dismiss an action *sua sponte* under Rule 41(b) for failure to prosecute or failure to obey a court order.") (citing Fed. R. Civ. P. 41(b) and *Lopez v. Aransas Cty. Indep. Sch. Dist.*, 570 F.2d 541, 544 (5th Cir. 1978)).

SO ORDERED, this 5th day of March, 2021.

S/ Marc T. Treadwell
MARC T. TREADWELL, CHIEF JUDGE
UNITED STATES DISTRICT COURT